



[Billing Code: 4710-25]

DEPARTMENT OF STATE

[Public Notice 8175]

Bureau of Political-Military Affairs; Statutory Debarment under the Arms Export Control Act and the International Traffic in Arms Regulations

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of State has imposed statutory debarment pursuant to §127.7(c) of the International Traffic in Arms Regulations (“ITAR”) (22 CFR Parts 120 to 130) on persons convicted of violating, or conspiracy to violate, Section 38 of the Arms Export Control Act, as amended, (“AECA”) (22 U.S.C. 2778). Further, a public notice was published in the Federal Register on Tuesday, July 24, 2012, listing persons statutorily debarred pursuant to the ITAR; this notice makes one correction to that notice.

DATES: *Effective Date:* The effective date is the date of this notice.

FOR FURTHER INFORMATION CONTACT: Lisa Aguirre, Director, Office of Defense Trade Controls Compliance, Bureau of Political-Military Affairs, Department of State (202) 632-2798.

SUPPLEMENTARY INFORMATION: Section 38(g)(4) of the AECA, 22 U.S.C. 2778(g)(4), prohibits the Department of State from issuing licenses or other approvals for the export of defense articles or defense services where the applicant, or any party to the export, has been convicted of violating certain statutes, including the AECA. The statute

permits limited exceptions to be made on a case-by-case basis. In implementing this provision, Section 127.7 of the ITAR provides for “statutory debarment” of any person who has been convicted of violating or conspiring to violate the AECA. Persons subject to statutory debarment are prohibited from participating directly or indirectly in the export of defense articles, including technical data, or in the furnishing of defense services for which a license or other approval is required.

Statutory debarment is based solely upon conviction in a criminal proceeding, conducted by a United States Court, and as such the administrative debarment procedures outlined in Part 128 of the ITAR are not applicable.

The period for debarment will be determined by the Assistant Secretary for Political-Military Affairs based on the underlying nature of the violations, but will generally be for three years from the date of conviction. Export privileges may be reinstated only at the request of the debarred person followed by the necessary interagency consultations, after a thorough review of the circumstances surrounding the conviction, and a finding that appropriate steps have been taken to mitigate any law enforcement concerns, as required by Section 38(g)(4) of the AECA. Unless export privileges are reinstated, however, the person remains debarred.

Department of State policy permits debarred persons to apply to the Director, Office of Defense Trade Controls Compliance, for reinstatement beginning one year after the date of the debarment. Any decision to grant reinstatement can be made only after the statutory requirements of Section 38(g)(4) of the AECA have been satisfied.

Exceptions, also known as transaction exceptions, may be made to this debarment determination on a case-by-case basis at the discretion of the Assistant Secretary of State

for Political-Military Affairs, after consulting with the appropriate U.S. agencies.

However, such an exception would be granted only after a full review of all circumstances, paying particular attention to the following factors: whether an exception is warranted by overriding U.S. foreign policy or national security interests; whether an exception would further law enforcement concerns that are consistent with the foreign policy or national security interests of the United States; or whether other compelling circumstances exist that are consistent with the foreign policy or national security interests of the United States, and that do not conflict with law enforcement concerns. Even if exceptions are granted, the debarment continues until subsequent reinstatement.

Pursuant to Section 38(g)(4) of the AECA and Section 127.7(c) of the ITAR, the following persons are statutorily debarred as of the date of this notice (Name; Date of Conviction; District; Case No.; Month/Year of Birth):

- (1) Luis Alejandro Yanez Almeida; December 8, 2012; U.S. District Court, Southern District of Texas; Case No. 7:12CR00275-001; October, 1988.
- (2) Freddy Arguelles; October 5, 2012; U.S. District Court, Southern District of Florida; Case No. 0:12-20478-CR-DIMITROULEAS-002; October 1974.
- (3) Victor Brown; October 9, 2012; U.S. District Court, Southern District of Florida; Case No. 0:12-20479-CR-DIMITROULEAS-002; September 1956.
- (4) Fidel Ignacio Cisneros; November 2, 2012; U.S. District Court, Middle District of Florida; Case No. 6:12-cr-123-Orl-28TBS; April 1970.

- (5) Victor Dobrogaiev, (aka Viktor Dobrogaiev); July 30, 2012; U.S. District Court, District of Arizona; Case No. CR 10-00233-002-PHX-FJM; August 1963.
- (6) Kirk Drellich; October 29, 2012; U.S. District Court, Southern District of Florida; Case No. 1:12-cr-20477-RSR-1; April 1963.
- (7) Raul Garcia-Nevarez; July 20, 2012; U.S. District Court, Western District of Texas; Case No. EP-09-CR-3418-DB; August 1955.
- (8) Martin Guillen-Cruz; September 10, 2012; U.S. District Court, Southern District of Texas; Case No. 7:10CR01446-001; August 1991.
- (9) Benjamin Raul Hernandez; November 26, 2012; U.S. District Court, Western District of Texas; Case No. DR-11-CR-1354(1)-AM; July 1983.
- (10) Ryan Mathers; July 3, 2012; U.S. District Court, District of Hawaii; Case No. 1:08CR00655-001; November 1987.
- (11) Diana Siboney Navarro-Hinojosa; February 24, 2012; U.S. District Court, Southern District of Texas; Case No. 7:10-cr-01440; August 1983.
- (12) Arturo Guillermo Nino Palacios, (aka Arturo Guillermo Nino); June 12, 2012; U.S. District Court, Western District of Texas; Case No. W-11-CR-200(03); June 1983.
- (13) Carlos Javier Paez-Renteria; July 21, 2012; U.S. District Court, Southern District of Texas; Case No. 7:11CR00164-001; September 1989.
- (14) Yusuf Kutbuddin Patanwala; November 30, 2012; U.S. District Court, Western District of Texas; Case No. W-12-CR-020(01); April 1950.

- (15) Alberto Pichardo; September 20, 2012; U.S. District Court, Southern District of Florida; Case Nos. 0:12-20478-CR-DIMITROULEAS-001 and 0:12-20479-CR-DIMITROULEAS-001; November 1972.
- (16) Juan Ricardo Puente-Paez; May 29, 2012; U.S. District Court, Southern District of Texas; Case No. 7:12CR00083-001; April 1978.
- (17) Pablo Reducindo-Chavez; September 27, 2012; U.S. District Court, Southern District of Texas; Case No. 7:11CR00019-001; October 1965.
- (18) Geoffrey B. Roose; July 13, 2012; U.S. District Court, Western District of Washington; Case No. 2:12CR00043JCC-001; May 1984.
- (19) Mario Salinas-Lucio; January 9, 2012; U.S. District Court, Southern District of Texas; Case No. 1:09CR00824-001; January 1968.
- (20) Leoncio Sanchez; June 22, 2012; U.S. District Court, Southern District of Texas; Case No. 1:11CR01100-002; August 1989.
- (21) Andro Telemi; November 30, 2012; U.S. District Court, Northern District of Illinois; Case No. 09 CR 736-2; June 1970.
- (22) Guillermo Enrique Villarreal; June 22, 2012; U.S. District Court, Southern District of Texas; Case No. 1:11CR01100-001; October 1974.

As noted above, at the end of the three-year period following the date of this notice, the above named persons/entities remain debarred unless export privileges are reinstated.

Debarred persons are generally ineligible to participate in activity regulated under the ITAR (see e.g., sections 120.1(c) and (d), and 127.11(a)). Also, under Section

127.1(d) of the ITAR, any person who has knowledge that another person is subject to debarment or is otherwise ineligible may not, without disclosure to and written approval from the Directorate of Defense Trade Controls, participate, directly or indirectly, in any ITAR-controlled export in which such ineligible person may benefit there from or have a direct or indirect interest therein.

Further, Federal Register document 2012-18043, published at 77 FR 43414, Tuesday, July 24, 2012, is corrected on page 43415, by deletion in its entirety of lines 66 through 70, inclusive. That notice of statutory debarment incorrectly included as a debarred party the following record:

"(33) Balraj Naidu; December 20, 2010; U.S. District Court, District of Maryland, Case No. CCB-1-08-CR-0091-002; February, 1967."

Mr. Naidu was indicted under seal in February, 2008, for, *inter alia*, conspiracy to violate, and violation of, the AECA. The judgment filed by the court and dated December 20, 2010 and relied on for purposes of statutory debarment stated as the nature of the offense for which judgment was entered "Conspiracy to Violate the Arms Export Control Act" and cited to U.S. Code Title and Sections "18:371 & 22:2778."

Subsequently, the court filed an amended judgment dated May 16, 2012, to correctly identify as the nature of the offense for which judgment was entered "Conspiracy to Provide Material Support to a Foreign Terrorist Organization" and cited to U.S. Code Title and Sections "18 USC 2339B(a)(1); 18 USC 2339A(b)(1)." As Mr. Naidu was not, in fact, convicted of violating, or conspiracy to violate, the AECA, the provisions of Section 127.7(c) of the ITAR are not applicable.

This notice is provided for purposes of making the public aware that the persons listed above are prohibited from participating directly or indirectly in activities regulated by the ITAR, including any brokering activities and in any export from or temporary import into the United States of defense articles, related technical data, or defense services in all situations covered by the ITAR. Specific case information may be obtained from the Office of the Clerk for the U.S. District Courts mentioned above and by citing the court case number where provided.

January 16, 2013

Dated

Andrew J. Shapiro

Assistant Secretary, Bureau of
Political-Military Affairs
Department of State

[FR Doc. 2013-02491 Filed

02/04/2013 at 8:45 am; Publication Date:

02/05/2013]